

### **Remarks**

Claims 1 – 25 currently are pending in the application and are under consideration. The claims have not been amended since filing. A restriction requirement was imposed by the examiner in the first office action. This response includes an election with traverse and a request to withdraw the restriction requirement.

#### **I. Election of Claims for Further Prosecution**

Subject to the traversal and request for withdrawal of the restriction requirement more fully presented below, the Applicant provisionally elects to prosecute Invention I, described by the Examiner as “location monitoring based on request signal or feedback signal, classified in class 455, subclass 456.2.” The applicant believes that all pending claims, namely claims 1 – 25, inclusive, read on Invention I.

#### **I. Traversal of Restriction Requirement**

The Examiner has found that there are three distinct inventions claimed in the application. Invention I is described as “location monitoring based upon request signal or feedback signal.” Invention II is described as “location monitoring at system equipment.” Invention III is stated to be monitoring loudspeaker location. Based upon these descriptions, the Examiner has stated that “Inventions I, II and II are related as combination and subcombination.” This assertion is confusing in that three inventions are described but a two-element combination-subcombination relationship is stated. The Applicant understands the Examiner’s assertion to be that Invention II is a subcombination of the combination of Invention I and likewise that Invention III is a subcombination of the combination of Invention I. The Applicant’s traversal of the restriction requirement is premised upon this understanding. If this understanding is incorrect, the Applicant respectfully requests a clarification of the Examiner’s position as to why a restriction requirement is properly imposed and an opportunity to respond to any clarification provided. Additionally, for clarity and ease of discussion, the Applicant focuses on the independent claims presented. However, arguments presented with respect to independent claims apply with equal force to the respective dependent claims as well.

This application includes four independent claims: claim 1, claim 11, claim 17, and claim 21. Independent claims 1 and 21 recite features of a system, or steps or acts of a method of use of a system respectively, identified by the Examiner as Invention I. As described by the Examiner, Invention I, as claimed by independent claim 1, includes, among other things, a location determinator that is configured to determine the location of one or more devices. Claim 1 also recites an evaluator that is configured to determine an adjustment to the system to improve system performance. The Applicant respectfully submits that claim 1 is a generic claim that reads upon all three of the invention categories described by the Examiner. See MPEP § 806.04(d).

A. Invention II is a Species of Invention I.

The Applicant respectfully disagrees with the Examiner's position regarding the combination-subcombination of the Inventions as described and requests that the restriction requirement be withdrawn. In passing upon issues relating to the propriety of restriction requirements, the subject matter as claimed must be considered and the claimed subject matter compared to determine the question of distinctness or independence. See MPEP § 806.01. In this case, because the claims presented include a generic claim that is broad enough to encompass species claims also presented, the restriction requirement should be withdrawn.

This application generally discloses mechanisms and methods for locating individual electronic devices in a system of electronic devices. [See Application p. 2, ll. 20 – 25]. The system of electronic devices uses sensing devices and emanating devices to determine locations of electronic devices. [Id.]. One example of such as system presented in the application is an audio system that includes loudspeakers. [Id. ll. 25 – 26]. The claimed invention can be used with other systems in addition to, or instead of, the exemplary audio system. [Id. ll. 26 – 29].

Invention II is claimed by independent claim 17 and the claims 18 – 20 that depend directly or indirectly from claim 17. Of note is the fact that both Invention I and Invention II are classified by the Examiner in telecommunications class 455 and in closely-related subclasses that describe particulars of location monitoring systems. Specifically, the Examiner placed Invention I in subclass 456.2 and Invention II in

subclass 456.5. Assuming for the purposes of this traversal that the Examiner's descriptions of Invention I and Invention II and corresponding classifications are correct, such close classifications strongly suggest that the field of search will be identical or at least greatly similar for claims drawn to both of the Examiner-identified inventions. Therefore, for at least this reason, the restriction requirement between Invention I and Invention II should be withdrawn.

As previously noted, independent claim 1 recites, among other things, a location determinator that is configured to determine the location of one or more devices. Independent claim 17, stated by the Examiner to read on Invention II, recites, among other things, a location determinator that is configured to determine the location of each base station of a plurality of base stations. The base station of claim 17 is an item that falls within the category of devices as claimed in claim 1. Therefore, the base station is a species of the genus device. For at least this additional reason, the restriction requirement between Invention I and Invention II should be withdrawn.

Claim 21 recites steps or acts in a method of adjusting a system. Specifically, the method includes "determining a location of each device of a plurality of devices based upon feedback from the plurality of devices, and adjusting the system based on the location of each device." The determining step can be performed using the location determinator claimed in claim 1. Similarly, the adjusting step can be performed using the claimed evaluator of claim 1. Where a process and an apparatus for its practice are both claimed, a restriction requirement is improper unless either the process as claimed can either be practiced by a materially different process or by hand, or that the apparatus as claimed can be used to practice another and materially different process. See MPEP § 806.05(e). Here, the Examiner has not suggested that either of these conditions are present and thus claims 21 – 25 are properly joined in this case.

**B. Invention III is a Species of Invention I.**

Invention III, as described by the Examiner, is "monitoring [loudspeakers] location, classified in class 381, subclass 103." Independent claim 11, stated by the Examiner to read on Invention III, recites, among other things, "a location determinator that is configured to determine a location of each loudspeaker of a plurality of

loudspeakers.” Further, claim 11 requires “an evaluator that is configured to determine an adjustment to the audio system . . . .” This claim does not, as posited by the Examiner, claim a subcombination, described as Invention III, of a combination described as Invention I, but rather properly claims a species of Invention I.

Claim 11 recites, among other things, a location determinator that is configured to determine a location of each loudspeaker of a plurality of loudspeakers and an evaluator that is configured to determine an adjustment based upon the location of each loudspeaker. The loudspeaker limitation is narrower than the generic “device” limitation of claim 1. Consequently, claim 17 claims a species within the genus described by claim 1. For at least this reason, the restriction requirement should be withdrawn.

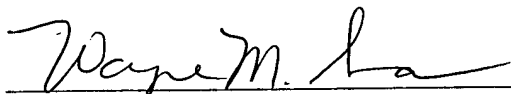
As discussed earlier, the application generally discloses systems and methods for locating individual electronic devices, using an audio system including loudspeakers as an example. An exemplary embodiment is almost by definition a species of a generic system. This genus-species relationship is reflected in the claims. Therefore, for at least this additional reason, the restriction requirement for Invention I and Invention III should be withdrawn.

**Conclusion**

For the foregoing reasons, the Applicant respectfully requests that the Examiner reconsider and withdraw the current restriction requirement. In the event any fees are due in connection with this document, the Commissioner is authorized to charge those fees to Deposit Account No. 50-1884.

Respectfully submitted,

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A handwritten signature in cursive script, appearing to read "Wayne M. Serra", is written over a horizontal line.

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